

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TRISTA STEWART,)
)
Plaintiff,)
)
vs.) No. 4:17-CV-1263 (CEJ)
)
PASCHALL TRUCK LINES, INC., and)
MICHAEL BURCHAM,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court *sua sponte* on the question of subject matter jurisdiction. See Fed. R. Civ. P. 12(h)(3).

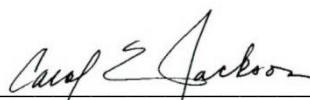
Plaintiff initiated this action on April 6, 2017, invoking jurisdiction based on diversity of citizenship. See 28 U.S.C. § 1332(a). According to the complaint, plaintiff is a resident of Missouri and defendant Michael Burcham is a resident of Ohio. However, “[w]hen it comes to diversity jurisdiction, the words ‘resident’ and ‘citizen’ are not interchangeable.” Reece v. Bank of N.Y. Mellon, 760 F.3d 771, 777 (8th Cir. 2014). With respect to defendant Paschall Truck Lines, Inc., plaintiff alleges that it is a “foreign company” with its principal place of business in Kentucky. Plaintiff has not alleged Paschall’s state of incorporation. See § 1332(c)(1) (“[A] corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.”).

Because the citizenship of the defendants has not been properly pleaded, the existence of diversity jurisdiction does not appear on the face of the complaint. Rule 12(h)(3) of the Federal Rules of Civil Procedure mandates that an action be

dismissed if the court determines that it does not have subject-matter jurisdiction. However, in lieu of dismissing the case, the Court will give plaintiff the opportunity to file an amended complaint to cure the defective jurisdictional allegations.

Accordingly,

IT IS HEREBY ORDERED that plaintiff shall have until **April 28, 2017**, to file an amended complaint properly pleading the citizenship of the parties and establishing subject matter jurisdiction.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 21st day of April, 2017.